

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	No. 13-CR-10200-GAO
v.)	
)	
DZHOKHAR TSARNAEV)	

STATUS REPORT

Defendant, Dzhokhar Tsarnaev, by and through counsel, and with the assent of the Government, hereby provides the following status report:

1. Pending Motions.

The parties have briefed the following motions:

- i. Motion to Vacate or Modify the SAMs [DE 110 (D), 127 (G), 138 (D), 180 (D), 207 (G), 210 (D), 277 (G), 281 (D)]¹
- ii. Motion for Hearing and Appropriate Relief Concerning Leaks and Public Comments by Law Enforcement [DE 280 (D), 312 (G), 336 (D)]

¹The clerk's notes of the hearing on April 16, 2014 state with regard to protection of the visits with Mr. Tsarnaev's sisters state: "On the Motion to Vacate Special Administrative Measures 110, the Court rules that visits to the defendant by defense counsel or other member(s) of the defense team for the purpose of preparing the defense are regarded as legal visits, and the presence of his sisters does not take the visits out of that category. The government shall either allow these visits without contemporaneous monitoring or propose a plan of contemporaneous monitoring that excludes members of the investigative or prosecutorial team. The government is to file a proposal within two weeks." [DE 254] The government filed a supplemental pleading on this issue on April 30, 2014 and the defense filed a response on May 5, 2014 [DE 277, 281]. The Court has not yet ruled.

- iii. Motion to Produce Grand Jury Instructions and Strike Special Findings [DE 288 (D), 317 (G)]
- iv. Motion to Strike Duplicative Aggravating Factors [DE 289 (D), DE 320 (G)]
- v. Motion for Outline of Aggravating Evidence [DE 290 (D), 316 (G)]
- vi. Motion Preserving Constitutional Challenges to Death Penalty [DE 291 (D), 318 (G)]
- vii. Government Motion for List of Mitigating Factors [DE 294 (G), 315 (D)]
- viii. Motion to Suppress Statements [DE 295 (D), 319 (G), 359 (D)]
- ix. Motion to Strike Betrayal Aggravating Factor [DE 279 (D), 320 (G), 356 (D)]
- x. Motion for Disclosure of Jury Records [DE 305 (D), 337 (G)]

The defense has sought leave to file a reply brief to the following motions on or by June 20, 2014 [DE 362]:

- xi. Motion to Suppress Physical Evidence [DE 297 (D), 343/350 (G)]
- xii. Motion to Suppress Electronically Stored Evidence [DE 303 (D), 343/350 (G)]

2. Evidentiary Hearings for Pending Motions.

The parties agree that an evidentiary hearing is required for the motion to suppress statements (see viii, above). The defense also seeks evidentiary hearings on the

Motions to Suppress Physical and Electronically Stored Evidence (see ix and xi above), as well as the Motion Concerning Leaks (see ii, above).

3. Scheduling.

The parties were unable to reach agreement regarding the scheduling of expert disclosures or reciprocal discovery, and filed separate pleadings re scheduling. [DE 276 (D), 278 (G)]

4. Agreement to Protect Defense Information.

The parties have reached agreement as to all but one provision of a proposed “Agreement to Protect Defense Information and Work Product.” The defense is reviewing the government’s position. The parties will advise the Court if the parties are unable to reach agreement and need the Court to resolve the issue.

5. Waltham/Todashev.

On April 25, 2014, the government provided an in camera submission to the Court. [DE 266]. The defense provided a supplemental filing regarding this issue on June 13, 2014. [DE 367]

6. Discovery.

The parties continue to exchange letters regarding discovery. The defense anticipates that additional discovery motions will need to be filed. The defense has now inspected the various items of physical evidence made available by the FBI in Boston and Quantico, Virginia. Disputes also remain regarding the production of approximately 80 digital items.

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Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 17, 2014.

/s/Judy Clarke